

Item #: 27B

Mover: RITZ

Prepared by: Richard J. Miller

Secorder: CHISM

Approved by: Brian L. Kuhn

RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, 2009 SERIES A OF SHELBY COUNTY, TENNESSEE, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWO HUNDRED THIRTY-FIVE MILLION DOLLARS (\$235,000,000.00) PURSUANT TO SECTIONS 9-21-901 THROUGH 9-21-916, OF THE TENNESSEE CODE ANNOTATED (THE "T.C.A.") FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF THE COUNTY'S GENERAL OBLIGATION VARIABLE RATE DEMAND REFUNDING BONDS, 2007 SERIES A, GENERAL OBLIGATION VARIABLE RATE DEMAND REFUNDING BONDS, 2008 SERIES A AND GENERAL OBLIGATION VARIABLE RATE DEMAND REFUNDING BONDS, 2008 SERIES B ISSUED PURSUANT TO SECTIONS 9-21-901 THROUGH 9-21-916 OF THE T.C.A.; MAKING PROVISION FOR THE RAISING ANNUALLY BY TAX UPON ALL PROPERTY SUBJECT TO TAXATION BY SHELBY COUNTY, TENNESSEE, OF A SUM SUFFICIENT TO PAY, AS THE SAME SHALL BECOME DUE, THE INTEREST AND PRINCIPAL OF THE BONDS; AUTHORIZING THE NEGOTIATED SALE OF THE BONDS PURSUANT TO THE PARAMETERS SET FORTH HEREIN; AUTHORIZING THE EXECUTION AND DELIVERY OF AN OFFICIAL STATEMENT AND PREPARATION AND DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT; RATIFICATION OF ALL ACTIONS TAKEN BY THE CHIEF ADMINISTRATIVE OFFICER AND DIRECTOR OF ADMINISTRATION AND FINANCE, COUNTY OFFICIALS AND THEIR AGENTS IN OBTAINING THE APPROVAL OF DIRECTOR OF LOCAL FINANCE FOR THE REFUNDING AND NEGOTIATED SALE OF THE BONDS AND TRANSFER OF RELATED SWAPS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT; APPOINTING FINANCIAL ADVISORS; AUTHORIZING PROPER OFFICIALS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF SAID BONDS; AND PROVIDING AN EFFECTIVE DATE. SPONSORED BY COMMISSIONER J. W. GIBSON, II.

**WHEREAS**, The Board of County Commissioners (the "Board") of Shelby County, Tennessee (the "County"), on July 9, 2007, authorized the issuance of the County's General Obligation Variable Rate Demand Refunding Bonds, 2007 Series A, in the principal amount of \$31,450,000.00 (the "2007A Bonds"); and

**WHEREAS**, The Board on February 11, 2008, authorized the issuance of the County's General Obligation Variable Rate Demand Refunding Bonds, 2008 Series A, in the principal amount of \$121,485,000.00 (the "2008A Bonds"); and

**WHEREAS**, The Board on April 14, 2008, authorized the issuance of the County's General Obligation Variable Rate Demand Refunding Bonds, 2008 Series B, in the principal amount of \$79,000,000.00 (the "2008B Bonds"); and

**WHEREAS**, The Board has determined that due to turmoil in the credit markets relative to variable rate bonds it is in the best interests of the County to refund all or a portion of the following maturities of the 2007A Bonds, the 2008A Bonds and the 2008B Bonds (collectively hereinafter referred to as the "Refunded Bonds");

<u>2007A Bonds</u>	
<u>Maturities</u> 2019	<u>Outstanding Principal Amounts</u> \$31,385,000.00
<u>2008A Bonds</u>	
<u>Maturities</u> 2022	<u>Outstanding Principal Amounts</u> \$121,485,000.00
<u>2008B Bonds</u>	
<u>Maturities</u> 2020	<u>Outstanding Principal Amounts</u> \$79,000,000.00

**WHEREAS,** The Refunded Bonds were issued to finance or refinance the cost of acquiring, equipping and constructing various public works projects, including but not limited to airports, hotels, bridges, tunnels, viaducts, courthouses, hospitals, sanitarium, dispensaries, clinics, health centers, mental health centers, and clinics, fair exhibition buildings, fairgrounds improvements, libraries, parks, playgrounds, recreation centers and facilities, almshouses, jails, workhouses, reformatories, public buildings, market houses, auditoriums, plazas, roads, highways, levees, flood control drainage systems and projects, schools, school purposes, transportation equipment for schools, sewers, sewage disposal systems, sewage treatment plants, railroads, railway terminals, railway belt lines and switches, river and navigation improvements, docks, ship canals, port and harbor improvements, parking lots, parking garages and facilities, water lines or mains, and any and all other lands and structures and undertakings which a county may properly own in its governmental or proprietary capacity, together with all property real and personal appurtenant thereto or connected with such work, undertaking or project and any existing work, undertaking or project, if any, to which such work, undertaking or project is an extension, addition, betterment, improvement or for various school purposes; and

**WHEREAS,** The County has previously requested and received on February 12, 2009, the approval of the State Director of Local Finance for the refunding of the Refunded Bonds and the negotiated sale of the Bonds (as herein described); and the Board desires to ratify all actions taken by County Officials and agents of the County in obtaining such approval; and

**WHEREAS,** The Board finds it is advantageous and necessary for the County to refund the Refunded Bonds in order to achieve overall debt restructuring and reduce its exposure to variable rate debt involving certain providers of liquidity; and

**WHEREAS,** The County is authorized pursuant to Section 9-21-107(12) of the Tennessee Code Annotated (the "T.C.A.") to make contracts and execute instruments containing such terms, provisions and conditions as in the discretion of the Board may be necessary, proper or advisable in or for the furtherance of any public works project and to carry out and perform the terms and conditions of all such contracts or instruments; and

**WHEREAS,** The County is authorized pursuant to Sections 9-21-214(13) and 9-21-915(13) of the T.C.A. to make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure general obligation bonds and/or general obligation refunding bonds, or in the discretion of the Board, to make general obligation bonds and/or general obligation refunding bonds more marketable; and

**WHEREAS,** The County is authorized pursuant to Sections 9-21-214(12) and 9-21-915(12) of the T.C.A. to execute all instruments necessary or convenient in the exercise of the powers granted under Chapter 21 of Title 9 of the T.C.A. or in the performance of the County's covenants or duties; and

**WHEREAS,** The Market Oversight Committee has met and reviewed this Resolution, and has recommended that the Board approve this Resolution and authorize the issuance and sale of the herein referenced Bonds in accordance with the parameters set forth herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That:**

1. There are hereby authorized to be issued and sold not exceeding Two Hundred Thirty-Five Million Dollars (\$235,000,000.00) principal amount of bonds to be designated "General Obligation Refunding Bonds, 2009 Series A" (hereinafter referred to as the "Bonds"). The Bonds shall be issued in fully registered form without coupons.

The Bonds shall be in the denomination of Five Thousand Dollars (\$5,000.00) each, and integral multiples thereof, shall be dated such date and shall bear interest from such date payable at such times, in such amounts and at such rates as shall be determined by the County Mayor in accordance with the parameters set forth herein.

The Bonds shall mature within thirty (30) years of their date of issue. The Mayor and the Chief Administrative Officer and Director of Administration and Finance, upon the advice of the County's Financial Advisor and the Market Oversight Committee, is authorized to determine the terms of redemption provisions, if any, to provide the best market acceptance of the Bonds. The Bonds shall bear interest at a rate or rates such that the average interest cost shall not be in excess of 5.5% per annum. Within the parameters set forth in this Section 1, such terms of the Bonds and the purchase price as finally determined by the Mayor shall be set forth in the Purchase Agreement as hereinafter defined. Pursuant to the provisions of Section 9-21-108 of the Tennessee Code Annotated the Board hereby delegates authority to the Mayor, upon advice of the Market Oversight Committee, to sell the Bonds in accordance with the provisions of this Resolution.

Subject to the parameters set forth in this section, the Mayor and the Chairman of the Board of County Commissioners are hereby authorized to execute and deliver a Purchase Agreement (the "Purchase Agreement") pursuant to which the Bonds shall be sold by the County and purchased by the underwriters named in said Purchase Agreement (collectively, the "Underwriters") at a price which allows for an Underwriters' discount of not greater than seven tenths of one percent (.7%) of the par amount thereof and original issue discount of not greater than two percent (2%) of the par amount thereof, plus accrued interest, if any, to the date of delivery, and on the terms and conditions set forth in the Purchase Agreement, and the Clerk is hereby authorized and directed to affix and attest the seal of the County thereto.

The Refunded Bonds (or portions thereof) to be refunded by the Bonds shall be as set forth in the Purchase Agreement, and shall show aggregate net present value savings, as confirmed by the Financial Advisors.

2. The Bonds and the provisions for registration to be endorsed thereon shall be in substantially the following form to wit:

UNITED STATES OF AMERICA  
STATE OF TENNESSEE  
SHELBY COUNTY  
GENERAL OBLIGATION REFUNDING BOND  
2009 Series A

No. \_\_\_\_\_

\$

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Originally Dated</u>	<u>CUSIP</u>
	_____, 1,	_____, 2009	

Principal sum:

Registered Owner:

KNOW ALL MEN BY THESE PRESENTS, that Shelby County, one of the counties of the State of Tennessee, hereby acknowledges itself indebted and for value received will pay the registered owner named above, or registered assigns (herein, the "Holder") on the maturity date specified above upon presentation and surrender hereof, the principal sum as specified above together with interest thereon which shall accrue from \_\_\_\_\_, until payment of said principal sum has been made or duly provided, at the rate per annum set forth above, payable on \_\_\_\_\_ 1, 2009 and semi-annually thereafter on the first day of \_\_\_\_\_ and the first day of \_\_\_\_\_ in each year.

Principal is payable in lawful money of the United States of America upon presentation and surrender of this Bond when due to the County at the principal office of the County Trustee or an agent appointed by the County, as Paying Agent. Interest on this Bond is payable by check or draft mailed to the person whose name appears as registered owner hereof on the registration books maintained by or on behalf of the County on the 15th day of the month immediately preceding the interest payment date.

[Redemption Provisions]

This Bond is one of the General Obligation Refunding Bonds, 2009 Series A of the County aggregating in original principal amount of \_\_\_\_\_ Million \_\_\_\_\_ Hundred \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_) issued under the Constitution and statutes of the State of Tennessee, including Sections 9-21-901 through 9-21-916, inclusive, of the Tennessee Code Annotated and pursuant to a resolution adopted by the Board of County Commissioners of Shelby County, Tennessee (the "Bond Resolution"), for the purpose of refunding certain general obligations of the County issued to finance or refinance certain public works projects, schools, school purposes and transportation equipment for schools in Shelby County, Tennessee.

The series of bonds of which this Bond is a part are issuable as fully registered bonds without coupons. Subject to certain limitations and upon payment of any tax or other governmental charges, if any, such registered bonds without coupons may be exchanged at the offices of the County Trustee, as Registrar, or if the County has appointed an agent as Registrar, at the principal corporate trust office of such Registrar, for a like aggregate principal amount of registered bonds without coupons of other authorized principal sums and of the same series, interest rate and maturity.

Shelby County and any Paying Agent and Registrar may treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment hereof and for all other purposes and shall not be affected by any notice to the contrary, whether this Bond be overdue or not.

By purchase and acceptance of a Bond, the beneficial owner agrees that the County shall have no responsibility or liability for the action or inaction of The Depository Trust Company or any of its participants, nominees or successors as depository in connection with the Bonds.

THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF SHELBY COUNTY, TENNESSEE, ARE HEREBY PLEDGED TO THE PUNCTUAL PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND, AND THERE SHALL BE ANNUALLY LEVIED, ON ALL PROPERTY SUBJECT TO TAXATION BY SHELBY COUNTY, A TAX SUFFICIENT TO PAY THE INTEREST ON AND PRINCIPAL OF THIS BOND AS THE SAME SHALL BECOME DUE.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist, happen and be performed precedent to, and in the issuance of this Bond, have been done, have existed, have happened and have been performed in regular and due form and manner as required by the Constitution and statutes of the State of Tennessee, and that this Bond together with all other indebtedness of Shelby County, Tennessee, does not exceed any limit prescribed by the Constitution and statutes of said State.

This Bond shall not be valid or become obligatory for any purpose until this Bond shall have been authenticated by the execution by the County Trustee or other Paying Agent, as authenticating agent, of the Certificate of Authentication endorsed hereon.

IN WITNESS WHEREOF, Shelby County has caused this Bond to be executed by the manual or the facsimile signature of its County Mayor, Chairman of the Board of County Commissioners and County Clerk, a facsimile of the seal of the Board of County Commissioners of Shelby County to be imprinted hereon and attested to by the manual or the facsimile signature of its County Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:

[SEAL]

\_\_\_\_\_  
COUNTY MAYOR

\_\_\_\_\_  
COUNTY CLERK

\_\_\_\_\_  
CHAIRMAN, BOARD OF COUNTY  
COMMISSIONERS

Dated: \_\_\_\_\_

Certificate of Authentication

This Bond is one of the Bonds  
described in the within  
mentioned Bond Resolution

\_\_\_\_\_  
as Paying Agent

By: \_\_\_\_\_  
Title: \_\_\_\_\_

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers  
unto

\_\_\_\_\_  
(Name, Address and Taxpayer Identification No. of Assignee)

the within bond and does hereby irrevocably constitute and appoint  
\_\_\_\_\_  
\_\_\_\_\_ to transfer the said bond on the  
books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signatures: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature Guarantee: \_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

3. The full faith and credit and unlimited taxing power of the County as to all taxable property in the County are hereby pledged to the punctual payment of the principal of and interest on the Bonds. Adequate provision will be made for raising annually by taxation of all taxable property in the County of a sum sufficient to pay the principal of and interest on the Bonds as the same shall become due. A tax sufficient to pay when due such principal and such interest shall be annually assessed, levied and collected in like manner with the other taxes of the County and shall be in addition to all other taxes authorized or limited by law.

4. The Bonds shall be executed by the manual or facsimile signatures of the County Mayor, the Chairman of the Board and the County Clerk of Shelby County (the "County Clerk"), and the seal of the Board shall be affixed thereto or reproduced thereon and attested by the County Clerk, either manually or with his facsimile signature. In the event any one or more of the officers, who shall have signed or sealed any of the Bonds, shall cease to be such officer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as provided herein and may be issued as if the person who signed and sealed such Bond has not ceased to hold such office. Any of the Bonds may be signed and sealed on behalf of the County by such person as shall hold the proper office at the actual time of execution of such Bonds, although, as of the date of such Bonds, such person may not have held such office or have been so authorized.

5. There shall be prepared a Preliminary Official Statement (the "Preliminary Official Statement") relating to the Bonds. The form of the Preliminary Official Statement at its date shall be "deemed final" by the County within the meaning of 17 C.F.R. § 240.15c2-12 but is subject to revision, amendment and completion in a final Official Statement. The use and distribution thereof in connection with the sale of the Bonds is hereby approved and ratified. The County Mayor and the Chairman are hereby

further authorized to execute and deliver on behalf of the County, the final Official Statement for the sale of the Bonds in substantially the form of the Preliminary Official Statement, with such changes, modifications and deletions as the officer of the County executing the same upon advice of the County Attorney and Bond Counsel may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization thereof by the County.

6. The County covenants as follows, with respect to the Bonds which, when initially issued, are the subject of an opinion of Bond Counsel to the effect that interest thereon is excluded from gross income for Federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), or any successor thereto:

A. The County shall comply with each requirement of the Code necessary to maintain the exclusion of interest on the Bonds from gross income for Federal income tax purposes. In furtherance of the covenant contained in the preceding sentence, the County agrees to comply with the provisions of the Tax Certificate (the "Tax Certificate") executed by the County on the date of initial issuance and delivery of the Bonds, as such Tax Certificate may be amended from time to time, as a source of guidance for achieving compliance with the Code.

B. The County shall make any and all payments required to be made to the United States Department of the Treasury in connection with the Bonds pursuant to Section 148(f) of the Code from amounts on deposit in the funds and accounts established in connection with the Bonds.

C. Notwithstanding any other provisions of this Resolution to the contrary, so long as necessary in order to maintain the exclusion from gross income of interest on the Bonds for Federal income tax purposes, the covenants contained in this Section shall survive the payment of the Bonds and the interest thereon, including any payment or defeasance thereof.

D. The County shall not use or permit the use of any of the proceeds of the Bonds, or any other funds of the County, directly or indirectly, to acquire any securities, obligations or other investment property, and shall not take or permit to be taken any other action or actions, which would cause any Bond to be an "arbitrage bond" as defined in Section 148 of the Code.

7. CUSIP identification numbers shall be imprinted on the Bonds but shall not be deemed to be a part of the Bonds or a part of the contract evidenced thereby and no liability shall hereafter attach to the County or any of the officers or agents thereof because of or on account of said CUSIP identification numbers.

8. The Bonds shall be registered in the name of Cede & Co. ("Cede"), as nominee of The Depository Trust Company ("DTC"). Payment of interest for the Bonds shall be made in same-day funds to the account of Cede on or before the applicable interest payment date for the Bonds at the address indicated for Cede in the registry books of the County Trustee (the "County Trustee"). Beneficial owners of the Bonds will not receive physical delivery of bond certificates nor will they have a right to receive a certificate during the period that the Bonds are immobilized in the custody of DTC. Purchases of Bonds by the public shall be made through brokers and dealers (who must be or act through "Participants" in DTC) in principal amounts of \$5,000.00 or multiples thereof.

Bond certificates or replacement bonds (the "Replacement Bonds") shall be issued directly to owners of the Bonds of each series other than DTC, or its nominee, in the event that (a) DTC determines not to continue to act as securities depository for the Bonds; (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties as a securities depository of immobilized securities; or (c) the County has determined that it is in the best interest of the County or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued. Upon occurrence of an event described in (a) or (b) above, the



County shall attempt to locate another qualified securities depository to replace DTC. If the County has made the determination in (c) above or fails to locate another qualified security depository to replace DTC upon the occurrence of an event described in (a) or (b) above, the County shall have executed, authenticated and delivered the Replacement Bonds, in certificate form to the beneficial owners of the Bonds or their nominees. Definitive Replacement Bonds shall be issued only upon surrender to the County, the County Trustee or the Registrar approved by the County of the Bonds of each maturity by DTC, accompanied by registration instructions for the definitive Replacement Bonds for such maturity from DTC. The County shall not be liable for any delay in the delivery of such instructions and conclusively may rely on and shall be protected in relying on such instructions of DTC. Interest on the Replacement Bonds shall be payable by check or draft mailed to each registered owner of such Replacement Bond at the address of such owner as it appears in the registry books of the County Trustee. Principal of and redemption premium, if any, on such Replacement Bonds shall be payable, when due, upon presentation and surrender thereof to the County or an agent of the County to be designated in the Replacement Bonds. Replacement Bonds will be transferable only by presentation and surrender to the County, the County Trustee or the Registrar approved by the County together with an assignment duly executed by the owner of the Replacement Bonds or by his representative in form satisfactory to the County Trustee or the Registrar appointed by the County and containing information required by the County in order to effect such transfer. As long as Cede is the registered owner of the Bonds, as the nominee for DTC, principal and interest shall be payable to Cede, as nominee of DTC, which will, in turn, remit such principal and interest to DTC Participants for subsequent disbursements to the beneficial owners of the Bonds. The County Trustee is hereby appointed to act as Registrar and Paying Agent with respect to the Bonds delivered to DTC and its successors or, in the case of Replacement Bonds (as defined herein), directly to the owners of the Bonds.

Notwithstanding any other provision of this Resolution to the contrary, as long as any Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal or redemption price of, and interest on, such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC.

9. The County hereby finds, based on the recommendation of its financial advisors, that it would be in the best interest of the County that the Bonds be sold on a negotiated basis.

10. Subject to the parameters set forth in Section 1 hereof, the Bonds are hereby sold to the Underwriters at the purchase price and terms as shall be set forth in the Purchase Agreement.

11. A. The County hereby agrees, in accordance with the provisions of Rule 15c2-12 in effect from time to time and applicable to the Bonds (the "Rule"), promulgated by the Securities and Exchange Commission ("Commission") pursuant to the Securities Exchange Act of 1934, to provide or cause to be provided, to each nationally recognized municipal securities information repository ("NRMISIR") and to the State of Tennessee information depository ("SID"), if any, in each case as designated and approved by the Commission and the State, respectively, in accordance with the Rule, within 180 days following the end of each Fiscal Year of the County, commencing with the Fiscal Year ending June 30, 2009, annual financial information and operating data concerning the County, consistent with the financial information and operating data included in the official statement prepared with respect to the Bonds, and, if not included with the annual financial information, then, when and if available, audited financial statements prepared in accordance with generally accepted accounting principles applicable to the County. A copy of such annual financial information and operating data will be provided by the County to the initial purchasers of the Bonds. If audited financial statements are not available at the time of required filings as set forth above, unaudited financial information shall be filed pending the availability of audited financial statements. (The information required to be disclosed in this subsection A shall be referred to herein as the "Annual Report").

The County reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the County; provided that the County agrees that any such modification will be done in a manner consistent with the Rule.

B. The County agrees to provide or cause to be provided, in a timely manner, to (i) each NRMISIR or to the Municipal Securities Rulemaking Board ("MSRB") and (ii) the SID, if any, written notice of the occurrence of any of the following events with respect to the Bonds, if such event is material:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (vii) Modifications to rights of security holders;
- (viii) Bond calls (other than scheduled mandatory redemption the terms of which are set forth in the official statement related to the Bonds and for which notice has been provided in accordance with the Rule) or any acceleration of the maturity thereof;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the securities;
- (xi) Rating changes; and
- (xii) Any change in the County's Fiscal Year.

C. The County agrees to provide or cause to be provided, in a timely manner, to (i) each NRMISIR or the MSRB and (ii) the SID, if any, written notice of a failure by the County to provide the Annual Report described in subsection A above on or prior to the date set forth therein.

D. The County reserves the right to terminate its obligation to provide Annual Report and notices of material events, as set forth above, if and when the County no longer remains an obligated person with respect to the Bonds within the meaning of the Rule (either by the redemption in full or legal defeasance of all such Bonds). If the County believes such condition exists, the County will provide notice of such termination to the NRMISIRS, the MSRB and the SID.

E. The County agrees that its undertaking pursuant to the Rule set forth in this paragraph 11 is intended to be for the benefit of the holders and beneficial owners of the Bonds and shall be enforceable by any holder or beneficial owner, provided that the right to enforce the provisions of this undertaking shall be limited to a right to obtain specific enforcement of the County's obligations hereunder and any failure by the County to comply with the provisions of this undertaking shall not be an event of default with respect to the Bonds.

F. Any voluntary inclusion by the County of information in its annual report of supplemental information that is not required hereunder shall not expand the obligations of the County hereunder and the County shall have no obligation to update such supplemental information or include it in any subsequent report.

G. The covenants contained herein are solely for the benefit of the holders and beneficial owners of the Bonds and shall not create any rights in any other parties.

H. Notwithstanding any other provision of this Resolution, the County may amend this paragraph 11 and any provision of this paragraph 11 may be waived, provided that the following conditions are satisfied:

(1) The amendment or waiver may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

(2) The undertaking, as amended or taking into account such waiver would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(3) The amendment or waiver does not materially impair the interests of holders and beneficial owners as determined either by parties unaffiliated with the County or obligated person (such as the trustee or Bond Counsel), or by an approving vote of holders pursuant to the terms of the Resolution.

In the event of any amendment or waiver of a provision of this paragraph 11, the County shall describe such amendment or waiver in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of annual financial information or operating data being presented by the County. In addition, if the amendment or waiver relates to the accounting principles to be followed in preparing financial statements (i) notice of such change shall be given in the same manner as set forth in subsection B and (ii) the Annual Report for the year in which the change is made shall present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

In lieu of providing the annual information and notice of enumerated events to the NRMISRs and any SID as described in Subparagraphs A and B above, the County may provide such information and notices to (A) the Texas Municipal Advisory Council (the "MAC") as provided at <http://disclosureusa.org>, provided the Securities and Exchange Commission has not withdrawn the interpretative advice in its letter to the MAC dated September 7, 2004, or (B) another entity which functions as a central post office and is approved by the Securities and Exchange Commission to fulfill such function.

I. The foregoing notwithstanding, the County agrees to make filings as required in connection with the implementation of the MSRB's new Electronic Municipal Market Access System ("EMMA"), which is expected to go into effect on July 1, 2009, as contemplated by SEC Release Number 34-59062 (dated December 5, 2008).

12. The Board hereby authorizes and directs that notice of conditional redemption be given to the bondholders of the Refunded Bonds as soon as practicable.

13. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for

any reason whatsoever be held invalid, such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements and provisions hereof or of the Bonds issued hereunder.


14. All actions taken to date by the officials of the County with respect to the issuance and sale of the Bonds including the selection of the date of sale of the Bonds, filing of a request for a negotiated sale and approval of the refunding of the Refunding Bonds and transfer of related interest rate swaps with the State Director of Local Finance.

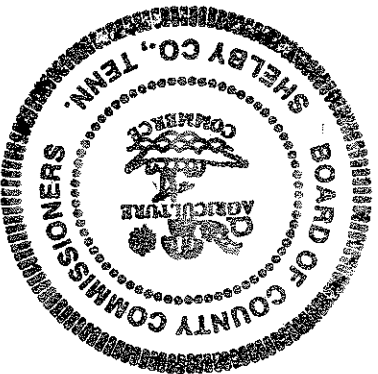
15. The County hereby appoints Public Financial Management, Inc. and Community Capital as the County's Financial Advisors for the Bonds.

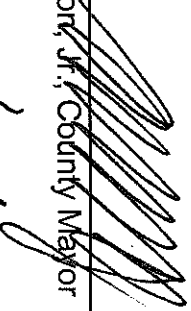
16. The appropriate officials of the County are hereby authorized to execute and deliver all papers, certificates, receipts, opinions and other documents they may deem necessary or desirable, and to take all steps they may deem necessary or desirable to effect the prompt delivery of and payment for the Bonds and all other transactions contemplated by the resolution.

17. All resolutions in conflict or inconsistent herewith are hereby repealed insofar as any conflict or inconsistency exists.

18. This resolution shall take effect immediately.

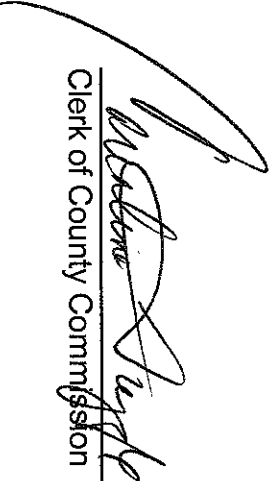
  
\_\_\_\_\_  
Deidre Malone, Chairman



  
\_\_\_\_\_  
A C Wharton, Jr., County Mayor

Date: 3/10/09

ATTEST:

  
\_\_\_\_\_  
Christine Stuyck  
Clerk of County Commission

ADOPTED: MARCH 2, 2009